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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,842	01/16/2004	Thomas Nikolaus	04-134	6965
34704 7590 05/10/2007 BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510			EXAMINER LOPEZ, FRANK D	
			ART UNIT 3745	PAPER NUMBER
			MAIL DATE 05/10/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/758,842	Applicant(s) NIKOLAUS, THOMAS	
	Examiner F. Daniel Lopez	Art Unit 3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 09 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 66-82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 66-82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

Applicant's arguments filed March 9, 2007, have been fully considered but they are not deemed to be persuasive.

Applicant's arguments with respect to claims 66-82 have been considered but are deemed to be moot in view of the new grounds of rejection. The new grounds of rejection are necessitated by the added limitation of the "transmission...selectively drivingly connecting the rotor element to one or more of the plurality of hydraulic pumps" (e.g. claim 66 line 9-12); and switching back to the claims of a previous amendment.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

Claims 68, 71/82, 73, 74, and 79-82 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 82 line 16-18 "a plurality of loads each having a connecting means for connecting the plurality of generators and/or loads "is confusing, since the generators have not been claimed as loads.

Claim 71/82 is confusing since it claims that the loads are generators and it appears that claim 82 also claims that the loads are generators.

Claim 79 does not further limit claim 78, since it is clear from claim 66 that the rotor drives the pump and the pump drives a load, and it is clear from claim 70, that the load is a generator, meeting all the limitations of claim 79.

In claim 80 line 1-2 "a plurality of wind machines each having" should be --the plurality of wind machines each have--, since the plurality was claimed in claim 69. In claim 80 line 3-4 "are connectable and drive a common generator" should be deleted, since it repeats the combination of limitations of claims 69 and 70.

In claim 81 line 3-4 "a converter is connected to the generator by the common supply and return line" is wrong since the converter (14) is connected between the generator (16) and the common supply and return line (8, 9). The generator has no antecedent basis.

Claims not specifically mentioned are indefinite, since they depend from one of the above claims.

Double Patenting

Applicant is advised that should claim 67 (or 70, if the indefiniteness of 82 is taken care of) be found allowable, claim 82 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 103

Claims 66, 69, 70, 72 and 75-80, inasmuch as they are definite, are rejected under 35 U.S.C. § 103 as being unpatentable over Parkins in view of Cros and Butler. Parkins discloses a wind power system comprising two or more wind machines (e.g. column 3 line 19-23), each driving, through a transmission element (e.g. 20), a plurality of pumps (22), which are controlled, by selectively controllable check valves (30), as a function of power output levels (based on rotor speed, see e.g. fig 9); which drives a single generator (50); with a pressure equalization container (46) is between the pump and the generator; wherein rotor elements (11) are attached to a pylon attachment (14), which is rotatably attached (e.g. column 4 line 5-10) to a pylon (12); wherein the pumps are attached to the pylon; but does not disclose that the pumps are in the pylon attachment; that the output line is passed through a coupling so its rotationally decoupled; or that the transmission element selectively drives the pumps.

Bea teaches, for a wind power system comprising a wind machine, driving a plurality of pump (e.g. 30, 31), which drives a generator (e.g. 8a); wherein rotor elements (38) are attached to a pylon attachment (11), which is rotatably attached (e.g. column 4 line 5-10) to a pylon (14); that the pumps are in the pylon attachment and that the output line is passed through a coupling (73, column 5 line 52-6) so its rotationally decoupled.

Since the locations of the pumps of Parkins and Bea are functionally equivalent in the wind power art, it would have been obvious at the time the invention was made to one having ordinary skill in the art to locate the pumps of Parkins in the pylon attachment, with the output line passed through a coupling so its rotationally decoupled, as taught by Bea, as a matter of engineering expediency.

Butler teaches, for a wind power system comprising a wind machine (28) driving a plurality of pumps (e.g. 82, 84, 86, 88), through a transmission element (e.g. 66, 98); that the transmission element is a controllable transmission element, which selectively drives the pumps, through clutches (e.g. 98), for the purpose of matching the power of the wind machine with the number of pumps (column 9 line 27-340).

Since the controllable check valves Parkins and the controllable transmission element of Butler perform the same function, in the wind machine art; they are interchangeable, and it would have been obvious at the time the invention was made to one having ordinary skill in the art to replace the transmission element of Parkins with a controllable transmission element, to selectively drive the pumps, through clutches, as taught by Butler, as a matter of engineering expediency. The check valves are kept, just no longer selectively controllable.

Claims 68, 71; and 67, 73, 74 and 82, inasmuch as they are definite, are rejected under 35 U.S.C. § 103 as being unpatentable over Parkins in view of Bea and Butler, as applied to claim 69, 70; and 66, respectively, and further in view of Cros. The modified Parkins discloses all the elements of claims 67, 68, 71, 73, 74 and 82; but does not disclose that the generator includes two or more generators, which are subdivided into different power levels, on a power output specific bases, via a control device, depending on power emitted by the wind machines; that there is a controllable restriction element or controllable valve in a line for open or closed loop control or braking;

Cros teaches, for a wind power system comprising two or more wind machines (e.g. 1a, 1b, 1c)), each driving a pump (3aa, 3b, 3c), which drives a generator (e.g. 8a); that the generator includes two or more generators (8a, 8b), which are subdivided into different power levels (e.g. column 13 line 52-56), on a power output specific bases, via

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a control device (268, fig 9), depending on power emitted by the wind machines; and that there is a controllable valve (12) in a line to another output device (9), for the purpose of controlling the output power.

Since the modified Parkins and Cros are both from the same field of endeavor, the purpose disclosed by Cros would have been recognized in the pertinent art of Parkins. It would have been obvious at the time the invention was made to one having ordinary skill in the art to include two or more generators in the wind power system of the modified Parkins, which are subdivided into different power levels, on a power output specific bases, via a control device, depending on power emitted by the wind machines; and to include a controllable valve in a line, to another output device, as taught by Cros, for the purpose of controlling the output power.


Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571-272-4821. The examiner can normally be reached on Monday-Thursday from 6:00 AM –4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The fax number for this group is (703) 872-9306. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.


F. Daniel Lopez
Primary Examiner
Art Unit 3745
May 2, 2007